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HUMAN RIGHTS COMMITTEE

Seventy-fifth session

SUMMARY RECORD OF THE FIRST PART (PUBLIC)* OF THE 2030th MEETING

Held at the Palais Wilson, Geneva,
on Friday, 19 July 2002, at 10 a.m.

Chairperson: Mr. BHAGWATI

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* The summary record of the second part (closed) of the meeting appears as document CCPR/C/SR.2030/Add.1.

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The meeting was called to order at 10.15 a.m.

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 40 OF THE COVENANT (agenda item 6) (continued)

Initial report of Moldova (continued) (CCPR/C/MDA/2000/1; CCPR/C/75L/MDA)

1. At the invitation of the Chairperson, the members of the Moldovan delegation resumed their places at the Committee table.

2. The CHAIRPERSON invited the delegation to answer the oral questions put to it the previous afternoon.

3. Mr. SLONOVSCHI (Moldova) thanked the Committee for the constructive comments it had made during the consideration of his country's report. His delegation had taken due note of the need to provide more specific examples of the implementation of the Covenant by the judiciary and public authorities. Some of the queries raised by the Committee required more study and the answers would be incorporated in the next report.

4. In reply to the question regarding the territorial application of the Covenant, he explained that no reservations or declarations had been made, because the Covenant had been ratified by the Moldovan Parliament before the conflict with Transnistria. His delegation would therefore be grateful for a dialogue with the Committee and for any recommendations it might make on the subject.

5. Turning to the question about freedom of religion, he distributed copies of the judgement of the European Court of Human Rights in the case of Metropolitan Church of Bessarabia and others v. Moldova. His country had undertaken to register that Church before the end of July 2002. A simplified registration process had been introduced under the new legal system. Any religion which wished to be recognized by the State was required to submit an application to the appropriate authority for inclusion on the register of religions. Once a faith had been properly registered, the State could not interfere in its affairs. A religion could be banned only if it endangered public order.

6. On the matter of freedom of expression on television and radio, he stated that, following the recommendation of the Parliamentary Assembly of the Council of Europe, the President of the Republic had introduced a bill under which public television would be granted independent status. More details on that topic would be supplied in the next report.

7. Most of the Roma were settled in certain towns and villages. The fact that they were no longer nomads had furthered their integration in Moldovan society. They experienced no difficulty in using the Moldovan or Russian languages but it was hard to organize education in their language owing to a lack of funds and teachers. There were plans to introduce local schemes to provide the Roma with social protection, combat unemployment, promote their

culture, offer their children primary and secondary schooling, and organize preventive medical services. The consolidation of minority rights had been facilitated by independence. The Moldovan authorities' efforts in that respect deserved the support of minorities within the country and of international organizations.

8. The Attorney-General's Office did not keep separate statistics on complaints of police brutality. It was therefore hard to give the precise number of cases. The Code of Discipline had been adopted on 4 January 1996. It provided that any law enforcement officer infringing its rules could be placed under observation, reprimanded, warned or dismissed. Article 53 of the Basic Law listed several remedies open to parties injured by an administrative act or failure to act upon a complaint within the time limit specified by the law. The State was held responsible for damage resulting from errors committed during criminal proceedings by investigative bodies or the judiciary.

9. In pursuance of the National Action Plan, a national human rights commission had recently been founded. It comprised Members of Parliament and representatives of public authorities and NGOs. It dealt with a wide range of subjects, including the setting-up of civil society mechanisms

10. Mr. REVENCO (Moldova) said that the three ombudsmen were highly qualified lawyers who had been appointed by Parliament. They had a secretariat and together they formed the Centre for Human Rights, which had several regional offices. Their reports on the human rights situation in Moldova had been completed and published in three languages but unfortunately, for technical reasons, it had been impossible to obtain copies in time for the meeting. They would, however, be sent to the Committee. The thrust of the ombudsmen's activities was to ensure respect for constitutional rights and freedoms by public authorities. They were contributing to the restoration of rights which had been infringed. Petitions must be sent to the ombudsmen within one year of the alleged violation of a right. The ombudsman could accept the petition and explain the rules and appeal procedures. If the petitioner agreed, the ombudsman could pass on his complaint to the relevant authorities for consideration. The ombudsman could also reject petitions. He could ask the authorities for any information or assistance he might require.

11. In connection with questions relating to the judiciary, he said that articles 106 and 116 of the Moldovan Constitution regulated the term of office of judges. Under article 116, judges were nominated by the Higher Judicial Council and appointed by the President of the Republic for a five-year probationary period, after which they were automatically appointed for life unless they had committed a serious offence or failed to satisfy the requisite conditions. The 15-year probationary period applied to candidates for the Supreme Court. The impartiality, independence and security of tenure of the judiciary were therefore guaranteed by that article of the Constitution. Judges could be disciplined for conduct incompatible with their duties and for breaches of the rules of service. Incompatible conduct included serious infringements of the law, failure to give due consideration to a case resulting in a violation of the rights of the parties, or breaches of confidentiality. If judges committed offences that were incompatible with their duties they could be placed under observation, reprimanded or dismissed. Judges could not be

put on trial without the consent of the Higher Judicial Council and the President of the Republic. Judges who were suspected of having committed an offence were immediately suspended from duty, but they could be arrested only with the approval of the Attorney-General. As from the following year, Parliament rather than the President of the Republic would be responsible for appointing and promoting judges.

12. Political parties were required to register with the Ministry of Justice. To that end, they had to present their statutes, programme of activities, charter, a list of members, a certificate showing the location of their headquarters and proof of a bank account. That documentation was examined in order to ascertain its compliance with the Constitution and the Parties Act. The Ministry of Justice had to reach a decision within one month. The Ministry would turn down the application for registration if the aims of the party in question were unconstitutional, if another party had the same name or if the party did not fulfil the geographical representation requirements. The Constitutional Court had ruled that the numerical criterion regarding members in territorial units did not constitute an impediment to the exercise of a citizen's right to freedom of association, provided that it did not lead to negation of the principle of political pluralism. An appeal against the Ministry's decision must be lodged with the Supreme Court within 10 days.

13. The propiska had been abolished by the Constitutional Court in 1996. Many citizens confused the propiska with the obligation to register one's main place of residence. The purpose of registration was, like in any other country, to determine which services were responsible for paying social benefits, providing schooling or collecting taxes. Such registration could not be used to hamper freedom of movement. Persons could have any number of homes in addition to their main place of residence, which they were free to choose.

14. His Government was aware of certain legal difficulties in connection with the enforcement of the new Terrorism Act. So far no statistics had been published on investigations conducted either under the new Act or under the old system. Data on that subject would be included in the next report. He asked the Committee if it could supply a definition of terrorism other than that contained in the Act.

15. Mr. SLONOVSCHI (Moldova) undertook to provide replies to any unanswered questions in the next report.

16. The CHAIRPERSON invited members of the Committee to raise further questions.

17. Mr. SOLARI YRIGOYEN asked whether conscientious objection to military service was acceptable on grounds other than religious belief, and invited the delegation to comment on any significant differences between military service and alternative civilian service.

18. Mr. KLEIN said he would like to know more about the requirement of registration of political parties. Why was there such a requirement? How many applications had been refused? And on what authority could a political party be dissolved? He was particularly concerned about the potential restraints that such registration could impose on political opposition movements.

19. Mr. YALDEN observed that the delegation had provided little information in response to the Committee's questions concerning women's rights, especially in relation to employment, promotion and prosecutions brought for acts of violence against women, and concerning linguistic and ethnic minorities. He was well aware of the constraints under which the delegation was working, but would like it to provide a fuller description of the situation of women and ethnic and linguistic minorities in Moldova as soon as possible.

20. Mr. SCHEININ said that, owing to the circumstances, he too would not repeat all the questions to which he had not received answers. However, he would like the delegation to address a number of urgent concerns. What was the statutory period of detention between arrest and first appearance before a judicial authority? Despite the abolition of the propiska system, was it still possible to be arrested as a vagrant on the ground of being absent from one's place of residence? Did the 30-day period of administrative detention without court review still exist in such cases? And finally, what was being done about the tuberculosis crisis in prisons, given that the funds for tackling the situation were known to be available?

21. Mr. ANDO asked the delegation to provide an assessment of the WHO "Making Pregnancy Safer" initiative in Moldova. Secondly, with regard to the delegation's statement that a part of the power of the President of the Republic to nominate and transfer judges had been shifted to Parliament, he pointed out that, under article 116 of the Constitution, the president and members of the Supreme Court of Justice were appointed by Parliament following nomination by the Higher Judicial Council. He would like to know more about that, and also whether the delegation's reference to the removal of an age limit for judges meant that none existed or that the power to decide had now been transferred from the executive to Parliament.

22. The CHAIRPERSON said he would like to know how the functions of the national human rights commission differed from those of the parliamentary advocates who constituted the Centre for Human Rights. Were both statutory bodies? Or had they been set up by executive orders?

The meeting was suspended at 11.05 a.m. and resumed at 11.15 a.m.

23. Mr. SLONOVSCHI (Moldova), replying to a question asked by Mr. Solari Yrigoyen, said that pacifism certainly constituted a ground for exemption from military service. He would provide the Committee with further details about other possible grounds after checking with the relevant authorities. The prescribed period of alternative civilian service was the same as for military service, i.e. at least one year.

24. Mr. REVENCO (Moldova) said he was unable to comment in detail on the reasons for the registration of political parties. He would supply the information within the next few days. Concerning the dissolution of political parties, the law provided that the decision must be taken by the Supreme Court of Justice, acting on a request from the Ministry of Justice.

25. With regard to the serious outbreak of tuberculosis in prisons, and particularly in detention facilities, he said that the authorities were urgently seeking a solution. Under the project being carried out with WHO, US$ 1.2 million had been earmarked specifically to address the problem. Again, his delegation would endeavour to provide the Committee with the relevant information as soon as possible.

26. Concerning the possible impediment to ethnic and linguistic minorities constituted by the requirement of fluency in the Moldovan language, he said that Moldova was a unitary State; since 1999, fluency in Moldovan had been required in order to hold public office, whether in State organizations, social agencies or other organizations involving contact with the public. The Public Service Act stated that applicants for civil service posts must have a command of Moldovan. Previously, no such minimum prerequisite for entry into public service had existed. The law did not provide that the official language must be spoken fluently in all types of public service. Those who did not require fluent Moldovan included local city councillors and the deputies of the Gagauzia Popular Assembly. However, it certainly was a requirement for the President of the Republic and the regional governor of Gagauzia.

27. With regard to the questions on violence against women and their promotion to senior positions, his delegation would provide as much statistical evidence as it could find within the next few days. He would also provide further information on the vagrancy problem mentioned by Mr. Scheinin, although he believed that the problem had largely been resolved, since Moldova's accession to the Council of Europe had been conditional upon compliance with the provisions of the European Convention on Human Rights in that and other areas.

28. In response to other questions, he said that correctional labour had been abolished following the introduction of a legislative amendment in 1998, and that, under article 25 of the Constitution, the maximum period of pre-trial detention was 24 hours. In view of the doubts members of the Committee had raised about possible derogations from that provision, he would investigate the matter further with the authorities in Moldova and report back to the Committee. Concerning the appointment of judges, he observed that article 116 of the Constitution specified that Parliament must be involved in the process of selecting the president and judges of the Supreme Court. However, the President of the Republic still appointed the judges to the other courts.

29. Replying to the question put by the Chairperson, he said that the national human rights commission comprised decision-makers drawn from Parliament, the ministries and civil society who met to discuss a broader range of issues than those addressed by the parliamentary advocates. By contrast, the parliamentary advocates of the Centre for Human Rights fulfilled the functions of the Ombudsman.

30. Mr. SLONOVSCHI (Moldova) said his delegation would endeavour to provide the Committee with statistics on all the remaining issues which had been mentioned, including implementation of the WHO Making Pregnancy Safer initiative, during the Committee's current session.

31. Mr. LALLAH said he had been disappointed with the level of dialogue achieved between the Committee and the delegation. He hoped that Moldova's next report would contain much more detail on the questions the Committee had raised during the current session. However, it was not too late for the delegation to provide written answers on some matters of particularly pressing concern before the Committee met to formulate its concluding observations. In particular, he would like to know about the impact of Moldova's new legislation on terrorism in relation to the Covenant, especially concerning detention (art. 9), due process and representation by counsel (art. 14), privacy (arts. 17 and 18), and freedom of thought (art. 19). Also, he would like the delegation to provide details concerning any persons detained under the terrorism laws, before and after 11 September 2001.

32. The CHAIRPERSON said that the Committee had had a most interesting but rather inconclusive dialogue with the delegation of Moldova, after which several questions remained to be answered. The dialogue had nevertheless been characterized by frankness and objectivity. The initial report submitted by Moldova contained a wealth of information regarding the human rights situation there, and reflected a deep commitment on the part of Moldova to protect human rights. The initial report had been delayed by six or seven years but that was understandable since Moldova had only become an independent State in 1990 and the Covenant had only come into force in Moldova in April 1993. Since independence, it must have taken time to dismantle the totalitarian structure and move to a democratic free-market economy. He was sure that, henceforward, Moldova would submit its periodic reports on time and that they would be much fuller and more detailed than the present one.

33. On the occasion of their first appearance before the Committee, the members of the delegation must have felt overwhelmed by the barrage of questions put by members, but he assured them that, as pointed out by Mr. Lallah, when members asked questions it was not in a spirit of criticism but in order to be able to evaluate the situation correctly and to point out shortcomings in the implementation of Covenant rights, so that the Government and people of the country could improve the situation and build up a strong human rights regime.

34. Since independence, Moldova had made considerable progress in establishing and advancing a human rights regime by adopting its new Constitution in 1994 and enacting new laws. The Constitution contained a bill of human rights and fundamental freedoms, and the laws sought to give effect to them. The report contained much information on the legal framework, but there was a serious lack of detailed information regarding the practical implementation of those laws, which the delegation had tried to make good in its oral replies, although not completely satisfactorily. There were several concerns to which the country would need to address itself. In the course of the dialogue, the members of the Committee had voiced those concerns and they would find a place in the Committee's concluding observations, which would be available at the end of the session. Among the many questions remaining unanswered were the registration system for churches, the legislation for converting the broadcasting system to an independent authority, the actual position of the national human rights commission, the appointment of judges, and conditions for the registration of political parties. Questions relating

to women's and minority rights, the concept of vagrancy, and many more also remained unanswered. He nevertheless congratulated Moldova on the abolition of the death penalty. He trusted that the Government would be able to provide the necessary written answers by fax before 1 p.m. on Monday, 22 July, so as to enable the Committee to draft its concluding observations. In the meantime, he thanked the delegation for its cooperation.

35. Mr. SLONOVSCHI (Moldova) thanked the Committee for the welcome extended to his delegation and praised the spirit in which the dialogue had been conducted. The exercise had been very useful and he undertook to send detailed replies to all the questions that had been left unanswered. He assured the Committee that Moldova would remain devoted to international human rights standards.

The public part of the meeting rose at 11.50 a.m.